

CAPT. ARCHIBALD W. BUTT.

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APRIL 26, 1904.—Committed to the Committee of the Whole House and ordered to be printed.

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MR. CLAUDE KITCHIN, from the Committee on Claims, submitted the following

REPORT.

[To accompany H. R. 5998.]

The Committee on Claims, to whom was referred the bill (H. R. 5998) for the relief of Capt. Archibald W. Butt, quartermaster, U. S. Army, beg leave to report:

This is a bill directing and authorizing the Secretary of the Treasury to pay, out of any money not otherwise appropriated, to Capt. Archibald W. Butt, quartermaster, U. S. Army, the sum of \$480, amount stolen from the United States in Manila, P. I., by an employee of the quartermaster's department by the name of Jose B. Luciano, and paid to the United States by Capt. Archibald W. Butt.

Briefly stated, the facts are as follows: During the month of February, 1902, Jose Luciano, who was employed as a messenger and copyist in the office of land transportation and government corrals, at Manila, P. I., under Capt. A. W. Butt, quartermaster, U. S. Army, broke into a safe in said office and stole therefrom \$950 in money; the same being in the custody of Captain Butt, he paid the money to the United States, making good the loss. About a year after that, Luciano, who had fled, was captured, confessed the theft, was convicted therefor and served a year's imprisonment. Four hundred and seventy dollars of the money was recovered from him, and this amount was turned over to Captain Butt by order of the proper officers, Captain Butt having made good the entire amount.

The bill seeks to reimburse Captain Butt for the amount paid out by him and not recovered from the thief, viz, a balance of \$480.

The War Department recommends the passage of the bill, and your committee, being satisfied that it is meritorious, recommend its passage.

Papers explanatory of the claim follow.

CITY OF MANILA, *Philippine Islands*, ss:

Personally appeared before me, J. McMicking, clerk of the court of first instance, Jose B. Luciano, who, being duly sworn, deposes and says:

That while employed as messenger and copyist in the office of land transportation and government corrals, Manila, P. I., under Capt. Archibald W. Butt, quartermaster, U. S. Army, during the month of February, 1902, he broke into and extracted from the office safe \$950 United States currency, United States Government funds, for which robbery he was arrested in Hongkong and returned to Manila, P. I., for trial.

That after his return to Manila, P. I., he voluntarily made confession to the police of the theft, stating the amount at \$950 United States currency.

Further deponent saith not.

JOSE B. LUCIANO.

Sworn to and subscribed before me this 3d day of April, 1903.

[SEAL.]

J. McMICKING,

*Clerk of Court of First Instance of Manila, ex officio Notary Public.*

With regard to the foregoing affidavit of Jose B. Luciano, the undersigned, Jos. B. Cooley, deposes and says:

That he is a detective of the secret service, Manila, P. I.; that he had the said Jose B. Luciano in charge after his return to Manila, and that the said Luciano voluntarily confessed to having robbed the office safe of Capt. Archibald W. Butt, quartermaster, U. S. Army, of Government funds to the amount of \$950 United States currency.

Further deponent saith not.

Insertion and correction above made before signing.

JOS. B. COOLEY.

Sworn to and subscribed before me this 16th day of April, 1903.

[SEAL.]

J. McMICKING,

*Clerk of Court of First Instance of Manila, ex officio Notary Public.*

In connection with the foregoing affidavits of Jose B. Luciano and Jos. B. Cooley the undersigned, W. L. Wright, deposes and says:

That he was appointed by the court of first instance to defend Jose B. Luciano, on trail for larceny of \$950 United States currency, Government funds, from the office of Capt. Archibald W. Butt, quartermaster, U. S. Army, and that the prisoner Luciano pleaded guilty to the charge—which was the theft of said \$950 United States currency.

Further deponent saith not.

W. L. WRIGHT,  
*Attorney for Defendant.*

Sworn to and subscribed before me this 17th day of April, 1903.

[SEAL.]

J. McMICKING,

*Clerk of Court of First Instance for the City of Manila.*

Personally appeared before me, J. McMicking, clerk of the court of first instance, George Curry, who, being duly sworn, deposes and says:

That I am chief of police of the city of Manila; that one Jose Luciano was reported to this office as having broken in the safe of the office of land transportation, in the quartermaster's department, and robbed the same of \$950, United States currency, the said Jose Luciano having been an employee as copyist in the cashier's office of the said department.

Ultimately it was learned that the said Jose Luciano had fled to Hongkong under an assumed name. Permission was had from Acting Governor of the Philippine Islands Luke Wright to send a detective to Hongkong, if the said Jose Luciano could be apprehended at that point. Police authorities there, after several days' communication, located the said Jose Luciano in Hongkong, and one George Seaver, detective, was sent to Hongkong with extradition papers to bring back the said Jose Luciano.

Upon arrival the said Jose Luciano did confess to having broken in the safe and extracting therefrom the amount of \$950 United States currency, being Government

funds for which Archibald W. Butt, quartermaster, U. S. Army, was accountable. He did confess to having kept a systematic watch on the safe while the same was being opened by the accountable officer, and coming to the office before the arrival of any clerks to practice on the combination until finally he opened the same. The deponent further swears that the sum of \$500 Mexican currency, having a value at the current rate of exchange at that time of \$238 United States currency, was recovered from the said Jose Luciano, \$249 Mexican currency of which was found on his person, the remainder being secured from natives to whom he had loaned this amount from the sum stolen.

That the said Jose Luciano also produced articles of wearing apparel, trinkets, a bicycle, and a typewriter, which he had bought with the stolen funds, and valued at the price he paid for the same of \$372 Mexican currency, having a value of \$177.14 United States currency.

The deponent further states that the \$500 Mexican currency, together with the wearing apparel, trinkets, bicycle, and typewriter were turned over to Capt. Archibald W. Butt, quartermaster, U. S. Army, by order of the court of first instance, the said Captain Butt having made good the shortage in the Government funds which had been stolen.

The deponent further states that the said Jose Luciano was brought to trial on the 13th day of March, 1902, and in view of his confession of guilt sentence was pronounced and he was convicted to serve one year and one day, as shown by attached form marked No. 2.

Deponent further states that the above statement was taken from the records on file in his office.

GEORGE CURRY.

Subscribed and sworn to before me this 7th day of April, 1902.

[SEAL.]

J. McMICKING,  
*Clerk Court of First Instance, Manila, P. I.*

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[United States of America, Philippine Islands. In the court of first instance for the city of Manila, P. I. Criminal case No. 246. Theft. The United States v. Jose B. Luciano, defendant.]

#### SENTENCE.

In this case the defendant withdrew his plea of not guilty and pleaded guilty to the charges.

The prosecuting attorney informed the court that after a thorough investigation of the proofs gathered by him, he discovered that the amount robbed by the defendant does not exceed the sum of \$450.

The penalty prescribed by law in article 518, section 2, of the penal code, for such crime as the defendant is now charged with, is of presidio correccional in its medium and maximum degree.

Taking into consideration the recommendation of Captain Butt, who is the military officer accountable for the money, and also to the youthfulness of the defendant and to various other circumstances, I believe that presidio correccional for one year would be a proper punishment for him, therefore I hereby sentence the said defendant, Jose B. Luciano, to suffer the penalty of presidio correccional for one year, and it is hereby ordered that the remainder of the stolen money be restored and to pay the costs of this cause.

With reference to the goods now in possession of the prosecuting attorney or with the military officer in charge, it is hereby ordered that the same be turned over to Captain Butt as a reimbursement, inasmuch as the said goods were purchased with the stolen money.

Manila, P. I., March 11, 1902.

ARTHUR F. ODLIN,  
*Judge of the Court of First Instance, Part 2.*

A true copy.

[SEAL.]

J. McMICKING,  
*Clerk of the Court.*

A true and correct translation.

JNO. O. PEREIRA,  
*Court Interpreter.*

[Criminal número 246. Hurto. Los Estados Unidos contra José B. Luciano.]

## SENTENCIA.

En esta causa el acusado retiró su contestacion de no culpable y la cambió por la de si culpable.

El fiscal informó al juzgado que la cantidad del dinero hurtado en esta causa segun las pruebas que fueron necesarias practicar no podia exeder de la suma de \$450 dinero americano.

Segun la ley la pena marcada en el parrafo 2 del artículo 518 del Código penal es la de presidio correccional en sus grados minimo y medio.

Tomando en consideracion los informes del Capitan Butt que era el oficial encargado del ejército americano que estaba encargado del dinero y ademas en consideracion á la juventud del acusado y varias otras circunstancias, opino que la pena propia para ser impuesta en esta causa és la presidio correccional por un año. Por tanto, segun lo que antecede, debo condenar y condeno al dicho acusado José B. Luciano á la pena de presidio correccional por un año y ordeno la devolucion del resto del dinero hurtado y al pago de las costas de esta causa.

Además con respecto á las cosas que están en manos del fiscal ó en manos del oficial del ejército americano ordeno que sean entregados estos efectos al Capitan Butt de la ciudad de Manila para reemborsarlos, los cuales efectos fueron comprados por el acusado con el dinero hurtado.

Manila, 11 de Marzo de 1902.

ARTHUR F. ODLIN,  
*Juez de Primera Instancia de Manila, Sala 2.*

Es fiel copia á que me remito.  
[SELLO.]

J. McMICKING,  
*Escribano.*

DEPARTMENT OF POLICE, DETECTIVE BUREAU,  
*Manila, P. I., March 13, 1902.*

Received from Capt. H. R. Chadwick, acting chief of secret service, the following-described property, being money and property taken from Jose Luciano, who was brought back from Hongkong, having absconded after robbing the safe in the office of Capt. Archibald W. Butt, quartermaster, U. S. Army:

One hundred and seventy-five dollars and ninety cents Mexican currency, silver; \$85 Mexican currency, paper; 1 nickel watch and gold chain; 1 gold-filled watch; 1 diamond ring (imitation); 1 plain gold ring; 2 Hongkong bills, \$100 each; \$15 United States currency; \$11.70 Mexican currency, small silver; 1 red-leather wallet; 1 Blickersderfer typewriter; 1 miscellaneous lot of clothing; 2 lockers, wood; 1 bicycle, Ideal, with lamp.

RICHARD SHEA,  
*Cashier Office Land Transportation.*

[The United States, plaintiff, v. Jose B. Luciano, defendant. Theft.]

In the court of first instance of the city of Manila, the 19th day of February, 1902.

Jose B. Luciano is accused by the undersigned of the crime of theft, committed as follows: That the said Jose B. Luciano on the 10th day of February, 1902, in the city of Manila, P. I., did then and there willfully, unlawfully, and feloniously take, steal, and carry away personal property of the United States of America, consisting of \$950, United States currency, of the value of 1,995 pesos Mexican money, with the intent of gain and without the consent of the owner thereof, contrary to the statute in such case made and provided.

W. H. BISHOP, *Prosecuting Attorney.*

Richard Shea, of lawful age, being first duly sworn, upon oath says: That he knows the contents of the foregoing complaint and that the facts and allegations set forth therein are true in substance and in fact.

RICHARD SHEA.

Subscribed and sworn to before me this 19th day of February, 1902.

J. McMICKING, *Clerk.*

A true copy.  
[SEAL.]

J. McMICKING,  
*Clerk of the Court of First Instance of Manila, ex Officio Notary Public.*

[Los Estados Unidos, demandante, contra José B. Luciano, demandado. Hurto.]

En el juzgado de primera instancia de Manila, Islas Filipinas, el día 19 de febrero de 1902.

El que suscribe acusa á José B. Luciano del delito de hurto, cometido como sigue: Que el referido José B. Luciano, en día 10 de febrero de 1902, en la ciudad de Manila, Islas Filipinas, voluntario, ilegal y criminalmente tomó, hurtó y llevó consigo efectos personales propiedad de los Estados Unidos de America, consistiendo en \$950 moneda de los Estados Unidos, del valor de 1,995 pesos moneda mexicana, con el intento de lucrarse sin el consentimiento de los dueños de la misma, con infracción de la ley.

W. H. BISHOP,  
*Fiscal de la Ciudad de Manila.*

Richard Shea, mayor de edad, previo el debido juramento, dice: Que conoce el contenido de la anterior querella y que los hechos y alegaciones espuestos en la misma son verdaderos en sustancia y en hecho.

RICHARD SHEA.

Firmado y jurado ante mi, hoy día 19 de Febrero de 1902.

J. MC. MICKING, *Escribano.*

Es fiel copia á que me remito.

[SELLO.]

J. MC. MICKING, *Escribano.*

DEPARTMENT OF JUSTICE OF THE PHILIPPINE ARCHIPELAGO, THIRD JUDICIAL DISTRICT,  
*Lingayen, P. I.:*

I, Arthur F. Odlin, judge of the court of first instance for the third judicial district of the Philippine Islands, do hereby certify that in the year 1902 I was one of the judges of the court of first instance in the city of Manila; that in the month of March, 1902, among the cases tried before me at Manila aforesaid was the case of The United States *v.* José B. Luciano, who was convicted of larceny and sentenced to imprisonment for one year. There is a clause in the sentence to the effect that the prosecuting attorney informed me that, after a thorough investigation of the proofs secured by him, he discovered the amount stolen by the defendant did not exceed the sum of \$450.

This statement is not exactly consistent with the facts. The statement of the prosecuting attorney was to the effect that the amount stolen by the defendant and not recovered did not exceed the sum of \$450. In other words, that the net loss to the Government would not exceed said sum of \$450.

I further certify that after examining the papers in connection with this case, and having made a subsequent examination, it is my opinion that the net loss to the United States Government, or to Capt. Archibald W. Butt, the quartermaster who was responsible for said funds, amounts to the sum of \$480, United States money.

Witness my hand and seal of this court at Lingayen, province of Pangasinan, P. I., this 23d day of July, 1903.

[SEAL.]

ARTHUR F. ODLIN, *Judge.*

A true copy.

A. W. BUTT,  
*Captain and Quartermaster, U. S. Army.*

Bill for the relief of Capt. Archibald W. Butt. Offered in the House by Representative Hardwick, of Georgia; and by Senator Clay, of Georgia, in the Senate. The Senate committee then referred the same, through military channels, to the War Department for recommendation.

[First indorsement.]

WAR DEPARTMENT, OFFICE OF THE QUARTERMASTER-GENERAL,  
*Washington, January 9, 1904.*

Respectfully referred, by direction of the Quartermaster-General, to Capt. A. W. Butt, quartermaster, United States Army, in charge of depot, Washington, D. C., with request that he will furnish this office with the papers and information called for in

this communication, in order that the Quartermaster-General may forward the same with his opinion as to the merits of the case.

J. B. BELLINGER,  
*Major and Quartermaster, U. S. Army.*

[Second indorsement.]

DEPOT QUARTERMASTER'S OFFICE,  
*Washington, D. C., January 11, 1904.*

Respectfully returned to the Quartermaster-General, United States Army, with the information that all papers pertaining to this case were forwarded to Representative Hardwick, who introduced this bill, and which were referred to the Committee on Claims of the House of Representatives. Inclosed find true copy of evidence in support of this claim. It may be remembered by the Quartermaster-General (who was then chief quartermaster, division of the Philippines) that I reported to him during the month of February, 1902, that the safe in my office had been broken into, and that \$950, United States currency, had been stolen; and that, being uncertain as to the criminal, I had, at considerable sacrifice to myself, made good the amount stolen to the United States, and reported such facts to the chief quartermaster, division of the Philippines—then Col. C. F. Humphrey. Subsequently, the thief, Jose Luciano, was arrested, confessed to the theft, was tried in the court of first instance, and sentenced to prison.

Inclosed find true copy of said confession, his sentence, affidavits of Capt. George Curry, chief of police, and J. B. Cooley, of the secret service department in Manila. Also a certificate from Judge Arthur F. Odlin, in which he sums up, correctly, all data in the case.

Nine hundred and fifty dollars was stolen; \$470 was recovered from the thief, leaving \$480, for which reimbursement is asked.

Owing to the fact that the said Luciano made confession, and that \$470 was recovered from him, I agreed, as will be seen by the sentence, to allow the criminal to plead guilty for a sum under \$500, which, under the Spanish law, would give him the minimum imprisonment; therefore, the sentence does not read in exact accordance with the facts, but it will be seen by the certificate of Judge Odlin that the amount stolen was \$950, and that the unrecovered portion was \$480, and same was made good to the United States by me, and not officially reported by me in order that the shortage should not appear upon my official papers in the Department; therefore the claim was made direct to Congress as a personal claim, and not through the War Department.

A. W. BUTT,  
*Captain and Quartermaster, U. S. Army, In charge of Depot.*

[Third indorsement.]

WAR DEPARTMENT, OFFICE OF THE QUARTERMASTER-GENERAL,  
*Washington, January 15, 1904.*

Respectfully returned to the Secretary of War, inviting attention to the second indorsement and the inclosures therewith.

I remember the circumstances of this case and believe that the loss to the Government of the \$480, which was reimbursed by Capt. A. W. Butt, Quartermaster's Department, was not due to any fault of his.

I recommend that Senate bill No. 2269, for his relief, receive favorable consideration.

C. F. HUMPHREY,  
*Quartermaster-General, U. S. Army*

[Fourth indorsement.]

WAR DEPARTMENT,  
OFFICE OF THE ASSISTANT SECRETARY OF WAR.

Respectfully returned to the chairman Committee on Claims, United States Senate, inviting attention to the foregoing report of the Quartermaster-General of the Army, in whose views the Department concurs.

ROBERT SHAW OLIVER,  
*Assistant Secretary of War.*

A true copy.

I. W. LITTELL,  
*Major and Quartermaster, U. S. Army.*



WAR DEPARTMENT,  
OFFICE OF THE QUARTERMASTER-GENERAL,  
Washington, March 4, 1904.

SIR: Referring to your verbal request for official copy of indorsement of the Quartermaster-General made on Senate bill No. 2269, for your relief, I have the honor, by direction of the Quartermaster-General, to quote the same:

"Third indorsement. War Department, Office of the Quartermaster-General, Washington, January 15, 1904.

"Respectfully returned to the Secretary of War, inviting attention to the second indorsement and the inclosures therewith.

"I remember the circumstances of this case, and believe that the loss to the Government of the \$480, which was reimbursed by Capt. A. W. Butt, Quartermaster's Department, was not due to any fault of his.

"I recommend that Senate bill No. 2269, for his relief, receive favorable consideration.

"C. F. HUMPHREY,  
"Quartermaster-General, U. S. Army."

Respectfully,

J. B. BELLINGER,  
Major and Quartermaster, U. S. Army.

Capt. A. W. BUTT,  
Quartermaster, U. S. Army, Washington, D. C.

STATE OF GEORGIA, *County of Fulton, ss:*

Personally appeared before me the undersigned authority, one T. J. McGrath, civilian employee, Quartermaster's Department, United States Army, who being duly sworn according to law, deposes and says:

That during the period mentioned he was employed as assistant cashier in the office of land transportation at Manila, P. I., under the direction of Capt. Archibald W. Butt, quartermaster, United States Army; that on or about February 15, 1902, one José B. Luciano, a Filipino employed in the office of the cashier of office land transportation, Manila, P. I., broke into the office safe containing quartermaster's funds pertaining to the said office land transportation and abstracted the sum of \$950 United States currency therefrom; that the said José B. Luciano was subsequently apprehended at Hongkong, China, and carried back to Manila by the Manila detective force; that the sum of \$470, United States currency, was recovered from the person of the said José B. Luciano, leaving a balance of \$480 not recovered and for which Capt. A. W. Butt, quartermaster, United States Army, was accountable.

That due care and diligence was exercised for the safe-keeping of these and all other funds pertaining to the office of land transportation, Manila, P. I., and that, in my opinion, Captain Butt should not be held accountable for the loss of said funds.

Further deponent saith not.

T. J. McGRATH,  
Clerk, Quartermaster's Department, United States Army.

HEADQUARTERS DEPARTMENT OF THE GULF,  
OFFICE OF THE JUDGE-ADVOCATE,  
Atlanta, Ga., ———, 190—.

Subscribed and sworn to before me this 5th day of March, 1904.

WILLIAM H. JOHNSTON,  
Captain, Sixteenth U. S. Infantry, in Charge of Office.

